

COMMISSIONERS APPROVAL

GRANDSTAFF *CG*
ROKOSCH *JGM - absent*
THOMPSON *AT*

CHILCOTT *g*

DRISCOLL *D*

PLETTENBERG (Clerk & Recorder)

Members Present.....Commissioner Carlotta
Grandstaff, Commissioner Greg Chilcott and Commissioner Kathleen Driscoll.

Date..... July 22, 2008

Minutes: Beth Perkins

► Commissioner Rokosch attended the Land Use Committee meeting in Helena.

► The Board met for a continuance of the public hearing for Clam Fork Agricultural
Covenant Revocation from July 10th. Present were County Attorney George Corn,
Planner John Lavey, Representative John Horat and Owner Steve Benedict.

Commissioner Grandstaff called the hearing to order and requested any conflicts of
interest, hearing none.

John Lavey stated the Planning Department recommended approval based on findings of
fact and conclusions of law in the Staff Report as well as the recommended conditions.

**Commissioner Chilcott made a motion to approve Clam Fork Agricultural
Covenant Revocation based on the findings of fact and conclusions of law in the
Planning Staff Report and as mitigated with conditions. Commissioner Driscoll
seconded the motion.** Discussion: Commissioner Chilcott stated the lot is compliant with
the voluntary zoning district in the area. Commissioner Grandstaff stated the County
Attorney stated this is in complete compliance with the subdivision regulations.
**Commissioner Chilcott and Commissioner Grandstaff voted 'aye'. Commissioner
Driscoll voted 'nay'. Motion failed.**

Commissioner Driscoll gave a reason of avoidance of subdivision regulations to base her
decision on from the original event. Commissioner Chilcott stated Commissioner Driscoll
should not base her decision on past events. The County Attorney's opinion is the
revocation is legal. Commissioner Driscoll stated she believes there was an evasion on

the original plan. County Attorney George Corn stated initially he thought this was an evasion. However, he found there was not any kind of evasion and the original was indeed done within subdivision regulations. Commissioner Driscoll asked Steve why he would want the agricultural covenant removed unless it was to build. Steve replied he would like to sell it as a 5 acre farm. John Horat stated the original two acres would have met the subdivision regulations. The move to make it five acres was to be in compliance with the voluntary zoning district. Steve stated he spoke to Jim Olson and he stated it was a good idea to take the whole thing and subdivide for the intent of farming such as organics. George stated they did follow the subdivision process to the letter and are in total compliance. If a land is subject to an agricultural covenant, it is going to remain forever. However according to law; it is subject to subdivision regulations when the owner wishes to remove the covenant.

Quinty Smith stated she wants to know how this would be in compliance with the voluntary zoning district with two parcels one being 5 acres and one being 4 acres. Both of those lots are existing, as there is no subdivision taking place. George replied the voluntary zoning district is not in place. They have not been approved by the Board of County Commissioners therefore; the approval would be grandfathered in.

Quinty Smith asked how they could change their boundary line. George replied they needed to apply to the Planning Department for boundary line adjustment.

Commissioner Chilcott stated the storage facility is not what is being discussed today. The voluntary zoning district was heard by the Planning and Zoning Commission and it was voted to send a recommendation for approval to the Board of County Commissioners, but it has not been approved yet. He stated the Board can only vote on what is present. Commissioner Driscoll requested the agricultural covenant be pointed out on the map. John Horat stated it is the whole parcel. Steve stated they started the process in November. They have done everything they could in the right way. Commissioner Chilcott asked Commissioner Driscoll if she was comfortable with the no build/no alteration zone. Commissioner Driscoll replied she wishes the agricultural covenant could stay in place.

Quinty Smith asked about the septic. John Horat replied the septic was severed, not removed. Quinty stated in the previous meeting, Steve assured them he wanted to build the house on the west main and now it sounds like they want to build beyond the tree line. Commissioner Chilcott stated the proposal on the table meets subdivision regulations.

Commissioner Chilcott made a motion to approve the removal of the agricultural covenant for Clam Fork based on the findings of fact and conclusions of law in the Planning Staff Report and as mitigated with conditions. Commissioner Grandstaff seconded the motion and all voted 'aye'.

► The Board met for a Planning Department Update.